IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY SEVENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE Dr. JUSTICE G.YETHIRAJULU

WRIT PETITION No. 11246 of 1994

Between:

K. Eshwaraiah Scale II Officer, Syndicate Bank
Abids Branch, Hyderabad

..... PETITIONER

AND

1 The Chairman & Managing Director Syndicate Bank, Head Office, Manipal, Karnataka
2 The General Manager (Personnel) Syndicate Bank, Head Office, Manipal, Karnataka
3 The Personnel Manager (I.R.) Syndicate Bank, Head Office, Manipal, Karnataka

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to declare the action of the respondent as illegal and mala fide apart from being vitiated for want of observance of principle of natural justice & set aside the orders of Respondent 2 Proceedings No.225: PD:IRD: DA:7 dt: 28-9-1991 and pay the arrears of two increments from March 1990 onwards by issuance of writ of Mandamus or any other writ order or direction as the Hon'ble Court may deem fir and proper in the circumstances of the case.

Counsel for the Petitioner: MR.S.SIVA SHANKAR

Counsel for the Respondents: MR.ALLURI KRISHNAM RAJU

The Court made the following:

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ORDER:

The petitioner is working with the respondent Bank. He was the Assistant Branch Manager, looking after foreign exchange department during 1981 to 1987. He was entrusted with the joint custodianship of cash duties due to administrative reasons for a brief period as an additional duty from second half of 1984. During 1985, while he was discharging his duties, an incident took place on 03.01.1985. On that day, he opened the cash strong room along with another joint custodian and took out cash of Rs.1,23,200/- from the strong room, and entered denominations of the bundles in the double lock pass book and kept the cash in a tray as per practice in existence, and the attender took the cash tray under his supervision and went to the cashier cabin. The cashier, who was in the cash cabin, verified the cash bundles along with double lock pass book and counted the cash bundles and gave his oral approval as to the satisfaction of the cash, and the petitioner left the place and resumed his respective duties.

2. The petitioner further submits that in order to start transaction of payment, the cashier will have to wait for about 5 to 10 minutes. In the meanwhile the petitioner received message that the cash of fifty-rupee notes bundle missed. Immediately, he rushed to the cash cabin, verified the cash bundles and found that the cash of Rs.50,000/- was missed. When he enquired the cashier, he said that he left the cash cabin to fetch a rubber stamp and by the time he returned, the cash bundle vanished. As the petitioner did not obtain the signature of the cashier in the double lock pass book, he was issued a charge sheet on 04.10.1988, and after conducting an enquiry, he was imposed the following punishment:

" Reduction in basic pay by two stages in the time scale of pay."

3. The petitioner contends that he is not responsible for missing of the cash. Therefore, the order of the respondents, imposing the above punishment, is

illegal and it is liable to be quashed.

4. On verification of the record, it is noticed that the petitioner was negligent in two respects. He failed to obtain the signature of the cashier on the double lock passbook, and he also failed to obtain an acknowledgment from the cashier in token of receipt of the cash, entrusted to him.

5. The respondents, while imposing the punishment on the petitioner, initiated disciplinary action against the cashier also and he was found guilty of the charge of responsibility for missing of the cash.

6. The learned counsel for the petitioner, therefore, represents that since the enquiry, initiated against the cashier, resulted in finding guilty of the charge, the petitioner is entitled to be exonerated. The learned counsel for the petitioner further submitted that even if it is accepted for a moment that there was negligence on the part of the petitioner, in obtaining the signature of the cashier in token of receipt of the cash, the punishment imposed on him is shockingly disproportionate. Therefore, he requested the Court to treat the matter as a rare case and impose appropriate punishment.

7. Since the charge that the petitioner was negligent in handling the cash and failing to obtain the acknowledgment from the cashier is proved, there shall be no interference in the order of the respondents. But since the respondents resorted to find the cashier also guilty for missing of the cash, there is a lingering doubt whether the cash missed in the hands of the petitioner.

8. In the light of the above circumstances, this Court is of the view that the ends of justice would be met if the punishment of reduction in basic pay by two stages in the time scale of pay is modified.

9. The punishment was imposed on 22.01.1990. The writ petition was filed in the year 1994, after exhausting departmental remedies. The writ petition remained pending for a decade and it reached the stage of hearing today.

10. In the light of long lapse of time, it may not be desirable to reduce the punishment of reduction in basic pay by two stages in the time scale pay. But, since the punishment is remaining through out the service of the petitioner, I would like to confine it to the period, ending August, 2004. The punishment imposed by the disciplinary authority is, accordingly, modified. The

respondents shall work out the salary of the petitioner, by treating that the punishment of reduction in basic pay by two stages, ended with 31.08.2004.

11. The Writ Petition is, accordingly, disposed of. No order as to costs.

dsr/skm

ASSISTANT REGISTRAR

To:

1. The Chairman & Managing Director,

Syndicate Bank, Head Office, Manipal, Karnataka

2. The General Manager (Personnel)

Syndicate Bank, Head Officer,

Manipal, Karnataka

3. The Personnel Manager (I.R)

Syndicate Bank, Head Office,

Manipal, Karnataka

4. Two CD copies.